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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

JUSKA, CHERYL ANN

ART UNIT PAPER NUMBER

1771

DATE MAILED: 06/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,136

Applicant(s)

CALANDRINO

Examiner

Cheryl Juska

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 26-30, 33-43 and 45-53 is/are rejected.
- 7) ☐ Claim(s) 24, 25, 31, 32, 44 and 54-56 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18, 19, and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 19 is indefinite for the lack of antecedent basis for the phrase "wherein removing fibers is practiced by...." Claim 18, from which 19 depends, recites "by removing *material* from the substrate." Thus, there is a lack of antecedent basis for "removing fibers." Additionally, claim 18 is indefinite because it is unclear if the material is removed from the substrate or from the first material (i.e., fibers) attached to said substrate.
4. Claim 30 is indefinite for the lack of antecedent basis of the phrase "the second textile material." Claim 26, from which claim 30 depends, recites "a second material" rather than a second *textile* material.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Applicant claims an article of manufacture, such as a floor covering, a wall hanging, a wall covering, a furniture covering, bedding, apparel, a table cloth, a napkin, a towel, or a wash cloth. Applicant also claims a floor covering, such as a carpet, an area carpet, a broadloom carpet, rug, area rug, or mat. Both the article of manufacture and the floor covering comprise (a) a first region of a first material having an image and (b) at least one second region of a second material having at least some information related to the image on the first region. The information may be textual, numerical, symbolic, or graphical. Additionally, the article of manufacture and the floor covering may further comprise a pocket.

The first region of the floor covering may include a void wherein the second region is positioned within said void. The first and second regions of the floor covering may be mounted on a common backing, while the second region may be mounted by means of an adhesive or stitching. The first region of the article of manufacture may include a perimeter wherein the second region is positioned within said perimeter. Additionally, the article of manufacture may include a plurality of second regions. Furthermore, the first material may be a tufted, woven, or nonwoven fabric, while the second material may be a woven or nonwoven fabric, wherein the second material may be different from the first material. The information in the article of manufacture may be provided as needlework, such as embroidery, cross-stitch, or crocheting.

In one particular embodiment, applicant claims a tufted carpet comprising (a) a primary backing, (b) a first region of tufts in said primary backing, wherein said tufts form an image, (c) a second region having little or no tufts, and (d) a textile material providing at least some

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information related to said image mounted in the second region. The textile material may be a woven or nonwoven fabric. The information may be textual, numerical, symbolic, or graphical. Said information may be provided by needlework, such as embroidery or cross-stitch, in said textile material.

Applicant also claims a method of making said article of manufacture or said floor covering. Said method includes the steps of (a) providing a first region of a first material having an image and (b) providing a second region of a second material having at least some information related to said image. The first material may be in the form of fibers, in particular, fibers tufted into a substrate or primary backing. The second material may be a textile or a non-textile material. The step of providing the second material is done by creating a void in the first region and mounting the second region in said void. Removing material from the substrate, such as cutting or shaving fibers, may create the void.

7. Claims 26-28, 33, 34, 36-41, 45-47, 50, and 53 are rejected under 35 USC 102(b) as being anticipated by each of Des. 381,211 issued to Aries et al., Des. 387,567 issued to Queen, and Des. 431,909 issued to Henry et al.

Claims 26-28, 33, 36-41, 45-47, 50, and 53 are rejected under 35 USC 102(e) as being anticipated by Des. 448,701 issued to DiGirolamo, Jr.

Aries, Queen, Henry, and DiGirolamo each teach an article of manufacture (i.e., wall display) comprising a first region of a first material having an image (i.e., a record, a patent, a medical certificate, and a photo, respectively) and a second region of a second material providing information relating to the first region (i.e., name plates having textual information). In each case, the first material is mounted on a substrate or backing and the second material is positioned

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within a void of the first region. Thus, it can be seen that claims 26-28, 33, 36-41, 45-47, 50, and 53 are anticipated by the cited prior art.

8. Claims 35 and 48 are rejected under 35 USC 103(b) as being anticipated by the cited Henry design patent.

Henry shows a plurality of second regions (i.e., name plates). Thus, claims 35 and 48 are also anticipated by Henry.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-18, 20-23, 26-30, 33-43, and 45-53 are rejected under 35 USC 103(a) as being unpatentable over US 5,461,748 issued to Koiduka.

Koiduka discloses a floor mat having a mat body or substrate which has tufts of pile attached thereto (Figure 1 and col. 2, lines 24-28). The perimeter of the mat has a name plate attached thereto (abstract and Figure 1). The name plate and the thermoplastic resin fixing element (i.e., adhesive) may be embedded in a void of the mat backing so as to lie within the same plane thereof (col. 3, lines 28-31). Thus, Koiduka teaches the presently claimed invention with the exception that the first region of the tufted mat has an image thereon. However, it is well-known in the art of floor mats to include images such as "welcome," a company or school logo, an esthetically pleasing picture or design, etc. Applicant is hereby given Official Notice of

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this fact. The examiner notes that the facts asserted to be common and well-known are capable of instant and unquestionable demonstration as being well-known. To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. Thus, it would have been obvious to one of ordinary skill in the art to employ an image on the tufted mat of Koiduka. Motivation to do so would be to personalize the floor mat or to provide an advertisement. Therefore, claims 1-18, 26-29, 33, 34, 36-42, 45-47, 50, 51, and 53 are rejected as being obvious over the cited Koiduka patent.

With respect to claims 35 and 48, although Koiduka does not explicitly teach a plurality of name plates, it would have been obvious to one of ordinary skill in the art to employ more than one name plate to suit a particular design and/or advertisement. Thus, claims 35 and 48 are rejected also.

With respect to claim 20-23, 52, 30, and 43, although Koiduka does not explicitly teach a name plates made of a textile, it would have been obvious to one of ordinary skill in the art to employ name plate of a textile material. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. Thus, claims 20-23, 52, 30, and 43 are rejected also.

Similarly, claim 49 is rejected since it would have been obvious to one of ordinary skill in the art to employ a woven or nonwoven material as the carpet layer of Koiduka since woven and nonwoven carpets are well known in the art and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use.

Allowable Subject Matter

11. Claims 19, 24, 25, 31, 32, 44, and 54-56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. With respect to claim 19, although it is well known in the art of carpets to create a void by cutting or shaving, it would not have been obvious to modify the Koiduka reference in this manner since Koiduka's second region is placed in the peripheral region where there are no carpet tufts. In doing so, Koiduka can firmly attach a name plate as needed by order. Thus, the cited prior art does not teach or fairly suggest creating a method of making a floor covering by providing a substrate, attaching a first material, providing an image on said first material, providing at least one void in a region of the first material, providing a second material having information related to the image, and mounting the second material in the void, wherein said void is created by removal of tufted fibers by cutting or shaving.

13. With respect to claims 24, 25, 31, 32, 44, there is not proper motivation to modify the cited Koiduka invention to provide a name plate which is made of needlework. Thus, said claims contain allowable subject matter since the prior art does not teach or fairly suggest providing the information in the second material by needlework.

14. With respect to claims 54-56, there is not proper motivation to modify the cited Koiduka invention to provide a pocket. Thus, said claims contain allowable subject matter since the prior art does not teach or fairly suggest providing a pocket to a floor covering, tufted carpet, or article of manufacture as presently recited in claims 1, 20, and 26, respectively.

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Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Cheryl Juska whose telephone number is 703-305-4472. The Examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


CHERYL A. JUSKA
PRIMARY EXAMINER